

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6713 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

RAYMOND A. DIPRE
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-230

FORMERLY BENEFIT DECISION No. 6713
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S.S.A. No.

HYDRAULIC RESEARCH
(Employer)

Employer Account No.

The claimant appealed from a determination issued by the Department of Employment which disqualified him for unemployment benefits for five weeks commencing December 17, 1962 under section 1256 of the Unemployment Insurance Code on the ground that he had voluntarily left his most recent work without good cause. The department also issued a ruling holding the employer's reserve account relieved of benefit charges under section 1032 of the code. Subsequent to the issuance of Referee's Decision No. S-1404, we set aside the referee's decision under section 1336 of the Unemployment Insurance Code.

STATEMENT OF FACTS

The claimant and his wife originally lived in Pennsylvania. However, they moved to California and the claimant obtained employment with the above-named employer. He worked for approximately one and one-half years as a precision grinder at a terminal wage of \$3.07 per hour. During the period of their residence

in California, the claimant's wife was extremely dissatisfied with the living conditions and desired to return to her former home area in Pennsylvania. The claimant testified that he wished to remain in California and keep his job. However, shortly prior to December 7, 1962, the claimant's wife informed him that she intended to leave California, move to Pennsylvania, and take their three minor children with her. She indicated that she would make this move regardless of his desires. Because of this ultimatum, the claimant voluntarily left employment on December 7, 1962, and moved with his family to Pennsylvania in order to maintain the family unit. The claimant has at all times been the major support of his family. He became re-employed on or about January 14, 1963.

REASONS FOR DECISION

Under section 1256 of the Unemployment Insurance Code a claimant is subject to disqualification, and under sections 1030 and 1032 of the code an employer's reserve account may be relieved of benefit charges if it is found that the claimant voluntarily left his most recent work without good cause. In applying this section of the code, we have held that if the facts disclose a real, substantial and compelling reason of such nature as would cause a reasonable person genuinely desirous of retaining employment to take similar action, then good cause has been shown for voluntarily leaving work (Benefit Decision No. 5686).

In Benefit Decision No. 5091, the claimant left his work as an assistant engineer aboard a vessel because he had recently been married and his wife wanted him to give up seafaring employment. In that case we found that there was no actual necessity or compulsion requiring him to leave employment. There was no evidence to show that continued employment would have jeopardized his family relationship.

In Ruling Decision No. 22, the claimant left his employment to accompany his wife, who was a member of the armed forces, to Washington D.C., where she had been assigned to temporary duty.

In the above cases we held that the claimants' reasons for leaving employment were of a personal nature and not so compelling as to constitute good cause.

In Benefit Decision No. 6112, the claimant presented several reasons for leaving employment, one of which was because his wife threatened to leave him unless he moved away from the area because his mother interfered with the wife. There was no evidence to show that the claimant took any steps to solve this problem between his wife and his mother before leaving employment. We held that the claimant's reasons for leaving were not so compelling as to constitute good cause for voluntarily leaving work.

In none of these cases was the claimant confronted with the ultimatum presented to the claimant herein; he could retain his employment with the result that he would be separated from his wife and children, perhaps permanently, or he could leave his employment, return with his family to their former home and thus maintain the family unity. We recognize that under sections 103 and 156 of the California Civil Code /both sections now repealed/ it is the wife's obligation to live in the domicile established by the husband. However, we believe that the claimant, faced with the ultimatum presented to him, acted as a reasonable person when he chose to preserve his marriage and the family unity. We conclude that the claimant's reasons for leaving employment were of such a compelling nature as to constitute good cause within the meaning of code sections 1256 and 1030.

Since the claimant was at all times the sole support of the family, section 1264 of the code does not apply.

DECISION

The determination and ruling of the Department of Employment are reversed. The claimant is not subject to disqualification under section 1256 of the code.

Benefits are payable providing he is otherwise eligible. The employer's reserve account is chargeable under section 1032 of the code.

Sacramento, California, July 19, 1963.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

GERALD F. MAHER, Chairman

LOWELL NELSON

NORMAN J. GATZERT

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6713 is hereby designated as Precedent Decision No. P-B-230.

Sacramento, California, February 9, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT